IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 29657 of 1998

Between:

M. Hyder Ali Khan S/o Late Abdul Habeeb Khan
R/o 41/417, Kothapet, Kurnool.

..... PETITIONER

AND

The Commissioner, Municipal Corporation of Kurnool, Kurnool.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent in issuing the impugned proceedings Roc. No. 3133/97/A1 dt. 30-7-1997 enhancing the rent more than 100% is illegal, arbitrary and violative of the Principles of natural justice and contrary to the statutory provisions and further direct the respondent to continue the petitioners in the existing Shop No. 28 at Municipal Open Air Theatre, Opposite Old Bus Stand, Kurnool, by enhancing the rent at the rate of 33 1/3 %.

For the Petitioner: MR.K.RAVINDRA BABU, Advocate

For the Respondent: MR. A. SRIDHAR, SC FOR MUNICIPAL CORPORATION OF KURNOOL

The Court made the following :

ORDER:

This writ petition is filed seeking a writ of mandamus to declare the action of the respondent in issuing the impugned proceedings Roc.No.3133/97/A1, dated 30-7-1997 enhancing the rent more than 100%, as illegal and arbitrary and to direct the respondent to continue the petitioner in the existing shop No.28 at Municipal Open Air Theatre, Opposite Old Bus Stand, Kurnool, by enhancing the rent at the rate of 33 1/3 %.

When the matter came up for hearing, learned counsel for the petitioner submits this writ petition is squarely covered by a decision of this Court in W.P. No.30082 of 1997, dated 30-8-2001 and sought to dispose of this Writ petition also in terms of the said judgment.

This court while disposing of the W.P. No.30082 of 1997 quashed the impugned proceedings and gave the following directions.

> "The respondents are directed to collect the rent from 01-05-1997 by enhancing the same by 33 1/3 % up to three years i.e. up to 30th April, 2000. From 01-05-2000 the petitioners shall pay the rent enhancing the same by further 33 1/3 %. The petitioners shall pay the arrears of rent if any on or before the end of September, 2001. If the petitioners are not willing to continue on payment of the enhanced rent as fixed above, it is always open for them to vacate the premises by giving one month's notice and also by paying the arrears of rent if any till the date of vacation."

Perused the said judgment and I am satisfied that this writ petition is squarely covered by the judgment of this Court in W.P. No.30082 of 1997.

Following the same, this writ petition is also disposed of in terms of the said judgment. No costs.

N.V. RAMANA, J

Date: 01-02-2005

Svv

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner, Municipal Corporation of Kurnool, Kurnool.

2 Two CD copies

Enclosed along with a copy of judgment/order dated 30-8-2001 made in W.P. No.30082 of 1997

*Form-NIC-OGS/WP{**ESWAR**}*